

**REQUESTED BY COUNCILMEMBERS DAVIS, DIEZEL, DYER, HENLEY, UHRIN,
WILSON AND WOOD**

1 A SUBSTITUTE RESOLUTION IN SUPPORT
2 OF STATE LEGISLATION AND A
3 CONSTITUTIONAL AMENDMENT TO
4 EXPEDITIOUSLY AND FULLY PROTECT
5 THE PROPERTY RIGHTS OF VIRGINIA
6 CITIZENS BY STRICTLY REGULATING THE
7 USE OF EMINENT DOMAIN

8 WHEREAS, in 2005, in a 5-4 decision in the case of *Kelo v. New London*, the
9 Supreme Court of the United States upheld the use of eminent domain by a
10 Connecticut locality to take privately held real property from a land owner and convey
11 that property to another private property owner to further economic development; and

12 WHEREAS, since that time there has been a growing consensus regarding the
13 need for additional protections of our citizens' property rights by limiting the use of
14 eminent domain by governmental entities in the Commonwealth; and

15 WHEREAS, an amendment to the Constitution of Virginia has been proposed
16 that would restrict the use of eminent domain; and

17 WHEREAS, Senate Bill 437 and House Bill 597, as drafted when introduced,
18 set forth eminent domain procedures and provide necessary definitions of terms; and

19 WHEREAS, the proposed constitutional amendment should mirror the language
20 contained in Senate Bill 437 and House Bill 597; and

21 WHEREAS, the proposed eminent domain constitutional amendment would not
22 take effect until 2013 at the earliest, assuming it clears substantial hurdles in the
23 General Assembly and is approved by the voters, but the General Assembly in its
24 current session may promptly enact laws to impose strict limitations on the exercise of
25 eminent domain that upon passage would become effective on July 1, 2012;

26 WHEREAS, it is the sense of City Council that time is of the essence, and these
27 vital protections need to be enacted without delay.

28 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
29 CITY OF VIRGINIA BEACH:

30 The rights of our citizens to their property are fundamental rights that ought to
31 be provided the highest of legal protection, and government should only interfere with
32 such ownership for public use and only upon payment of full and fair compensation.

33 BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF
34 VIRGINIA BEACH:

35 The City Council urges the General Assembly to (1) promptly enact state
36 legislation that is consistent with Senate Bill 437 or House Bill 597 but that would
37 create statutory protections that could be effective on July 1, 2012, so as to fully and
38 expeditiously protect our citizens' vital property rights; and (2) support a constitutional
39 amendment effectuating the provisions of Senate Bill 437 and House Bill 597 as
40 drafted when introduced.

Adopted by the City Council of the City of Virginia Beach on the ____ day of
_____, 2012.

APPROVED AS TO LEGAL SUFFICIENCY:


CITY ATTORNEY'S OFFICE

CA12118
R-7
January 24, 2012